



Nationality, Immigration and Asylum Act 2002

2002 CHAPTER 41

PART 5

[^{F1}APPEALS IN RESPECT OF PROTECTION AND HUMAN RIGHTS CLAIMS]

[^{F1}Appeal to Tribunal]

85 Matters to be considered

- (1) An appeal under section 82(1) against a decision shall be treated by [^{F1}the Tribunal] as including an appeal against any decision in respect of which the appellant has a right of appeal under section 82(1).
- (2) If an appellant under section 82(1) makes a statement under section 120, [^{F1}the Tribunal] shall consider any matter raised in the statement which constitutes a ground of appeal of a kind listed in section [^{F2}84] against the decision appealed against.
- (3) Subsection (2) applies to a statement made under section 120 whether the statement was made before or after the appeal was commenced.
- (4) On an appeal under section 82(1) ^{F3}... against a decision [^{F4}the Tribunal] may consider ^{F5}... any matter which [^{F6}it] thinks relevant to the substance of the decision, including ^{F7}... a matter arising after the date of the decision.
- [^{F8}(5) But the Tribunal must not consider a new matter unless the Secretary of State has given the Tribunal consent to do so.
- (6) A matter is a “new matter” if—
 - (a) it constitutes a ground of appeal of a kind listed in section 84, and
 - (b) the Secretary of State has not previously considered the matter in the context of—
 - (i) the decision mentioned in section 82(1), or

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(ii) a statement made by the appellant under section 120.]

Textual Amendments

- F1** Words in s. 85 substituted (4.4.2005) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), ss. 26, 48(1)-(3), [Sch. 2 para. 18\(1\)\(2\)](#); S.I. 2005/565, [art. 2](#) (with savings in arts. 3-9)
- F2** Word in s. 85(2) substituted (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 34\(a\)](#); S.I. 2014/2771, [art. 2\(e\)](#) (with arts. 9-11 (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, [arts. 1\(2\)\(3\)](#), 7, 8) and with transitional provisions and savings in S.I. 2014/2928, [art. 2](#) (which S.I. is revoked (6.4.2015) by S.I. 2015/371, [arts. 1\(3\)](#), 9))
- F3** Words in s. 85(4) omitted (20.10.2014) by virtue of [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 34\(b\)\(i\)](#); S.I. 2014/2771, [art. 2\(e\)](#) (with arts. 9-11 (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, [arts. 1\(2\)\(3\)](#), 7, 8) and with transitional provisions and savings in S.I. 2014/2928, [art. 2](#) (which S.I. is revoked (6.4.2015) by S.I. 2015/371, [arts. 1\(3\)](#), 9))
- F4** Words in s. 85(4) substituted (4.4.2005) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), ss. 26, 48(1)-(3), [Sch. 2 para. 18\(1\)\(2\)](#); S.I. 2005/565, [art. 2](#) (with savings in arts. 3-9)
- F5** Words in s. 85(4) omitted (20.10.2014) by virtue of [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 34\(b\)\(ii\)](#); S.I. 2014/2771, [art. 2\(e\)](#) (with arts. 9-11 (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, [arts. 1\(2\)\(3\)](#), 7, 8) and with transitional provisions and savings in S.I. 2014/2928, [art. 2](#) (which S.I. is revoked (6.4.2015) by S.I. 2015/371, [arts. 1\(3\)](#), 9))
- F6** Word in s. 85(4) substituted (4.4.2005) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), ss. 26, 48(1)-(3), [Sch. 2 para. 18\(1\)\(2\)](#); S.I. 2005/565, [art. 2](#) (with savings in arts. 3-9)
- F7** Words in s. 85(4) omitted (20.10.2014) by virtue of [Immigration Act 2014 \(c. 22\)](#), s. 75(3), [Sch. 9 para. 34\(b\)\(iii\)](#); S.I. 2014/2771, [art. 2\(e\)](#) (with arts. 9-11 (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, [arts. 1\(2\)\(3\)](#), 7, 8) and with transitional provisions and savings in S.I. 2014/2928, [art. 2](#) (which S.I. is revoked (6.4.2015) by S.I. 2015/371, [arts. 1\(3\)](#), 9))
- F8** S. 85(5)(6) substituted for s. 85(5) (20.10.2014) by [Immigration Act 2014 \(c. 22\)](#), [ss. 15\(5\)](#), 75(3); S.I. 2014/2771, [art. 2\(b\)](#) (with arts. 9-11 (as amended (2.3.2015 and 6.4.2015) by S.I. 2015/371, [arts. 1\(2\)\(3\)](#), 7, 8) and with transitional provisions and savings in S.I. 2014/2928, [art. 2](#) (which S.I. is revoked (6.4.2015) by S.I. 2015/371, [arts. 1\(3\)](#), 9))

Modifications etc. (not altering text)

- C1** Ss. 84-86 applied by S.I. 2006/1003, [Sch. 1 para. 1](#) (as amended (6.4.2015) by [The Immigration \(European Economic Area\) \(Amendment\) Regulations 2015 \(S.I. 2015/694\)](#), reg. 2, [Sch. 1 para. 15](#) (with reg. 6)
- C2** S. 85 applied (with modifications) by 1997 c. 68, [s. 2\(2\)\(f\)](#) (as substituted (1.4.2003) by 2002 c. 41, ss. 114, 162(2), [Sch. 7 para. 20](#) (with s. 159); S.I. 2003/754, [art. 2\(1\)](#), [Sch. 1](#))
Ss. 82-99 restricted (14.3.2003) by [The Nationality, Immigration and Asylum Act 2002 \(Commencement No. 4\) Order 2003 \(S.I. 2003/754\)](#), arts. 3, 4 (with transitional provisions in arts. 3, 4, Sch. 2 (as amended by S.I. 2003/1040, S.I. 2003/1339 and S.I. 2003/2993))
Ss. 85-87 applied (1.4.2003) by S.I. 2000/2326, [Sch. 2](#) (as substituted by [The Immigration \(European Economic Area\) \(Amendment\) Regulations 2003 \(S.I. 2003/549\)](#), [reg. 2\(10\)](#) (with transitional provisions in reg. 3))
- C3** S. 85 modified (30.10.2020) by [The Immigration \(Persons Designated under Sanctions Regulations\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1101\)](#), regs. 1, 7
- C4** S. 85(2) applied (with modifications) by S.I. 2006/1003, [Sch. 2 para. 4\(10\)](#) (as substituted (6.4.2015) by [The Immigration \(European Economic Area\) \(Amendment\) Regulations 2015 \(S.I. 2015/694\)](#), reg. 2, [Sch. 1 para. 16\(b\)](#))
- C5** S. 85(2)(6)(a) applied (with modifications) (1.2.2017 for specified purposes) by [The Immigration \(European Economic Area\) Regulations 2016 \(S.I. 2016/1052\)](#), reg. 1(2)(b), [Sch. 2 para. 2\(4\)](#)

Changes to legislation: Nationality, Immigration and Asylum Act 2002, Section 85 is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

C6 S. 85(4) applied (with modifications) by 1997 c. 68, s. **2(3)(a)** (as substituted (1.4.2003) by 2002 c. 41, ss. 114, 162(2), **Sch. 7 para. 20** (with s. 159); S.I. 2003/754, art. 2(1), **Sch. 1**)

Changes to legislation:

Nationality, Immigration and Asylum Act 2002, Section 85 is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to :

- s. 85(1) words inserted by [2022 c. 36 Sch. 3 para. 2\(a\)](#)
- s. 85(2) words inserted by [2022 c. 36 Sch. 3 para. 2\(a\)](#)
- s. 85(4) words inserted by [2022 c. 36 Sch. 3 para. 2\(a\)](#)
- s. 85(5) words inserted by [2022 c. 36 Sch. 3 para. 2\(b\)\(i\)](#)
- s. 85(5) words substituted by [2022 c. 36 Sch. 3 para. 2\(b\)\(ii\)](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Blanket amendment words substituted by [S.I. 2011/1043 art. 34](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 18(1)(1A) substituted for s. 18(1) by [2016 c. 19 Sch. 11 para. 31\(2\)](#)
- s. 22A inserted by [2022 c. 36 s. 13\(7\)](#)
- s. 27(ba) inserted by [2022 c. 36 s. 13\(10\)](#)
- s. 51(2)(d) and word inserted by [2016 c. 19 Sch. 11 para. 26\(6\)](#)
- s. 55(2)(aa) inserted by [2016 c. 19 Sch. 11 para. 26\(7\)](#)
- s. 62(3A) inserted by [2023 c. 37 s. 11\(8\)](#)
- s. 80A(5A) inserted by [2023 c. 37 s. 10\(8\)](#)
- s. 82A inserted by [2022 c. 36 s. 23\(1\)](#)
- s. 94(6B) inserted by [2006 c. 13 s. 13](#)
- s. 106(2)(ua) inserted by [2007 c. 30 s. 19\(3\)](#)
- s. 107(2A) inserted by [2022 c. 36 Sch. 3 para. 5\(a\)](#)
- s. 126(2A) inserted by [S.I. 2019/745 reg. 12\(3\)\(b\)](#) (This amendment not applied to [legislation.gov.uk](#). Reg. 12(2)(3) omitted immediately before IP completion day by virtue of S.I. 2020/1309, regs. 1(2)(a), 48)
- Sch. 3 para. 1(1)(ga) inserted by [2016 c. 19 Sch. 12 para. 2\(2\)](#) (This Act is amended by S.I. 2020/1309, Sch. 1 para. 3(a))
- Sch. 3 para. 1(2A) inserted by [2016 c. 19 Sch. 12 para. 2\(4\)](#) (This Act is amended by S.I. 2020/1309, Sch. 1 para. 3(b))
- Sch. 3 para. 1A inserted by [2016 c. 19 Sch. 12 para. 3](#)
- Sch. 3 para. 2(1)(ca) inserted by [2016 c. 19 Sch. 12 para. 4\(3\)](#)
- Sch. 3 para. 2A inserted by [2016 c. 19 Sch. 12 para. 5](#)
- Sch. 3 para. 3A-3C inserted by [2016 c. 19 Sch. 12 para. 6](#)
- Sch. 3 para. 7B7C and cross-headings inserted by [2016 c. 19 Sch. 12 para. 9](#)
- Sch. 3 para. 10A10B inserted by [2016 c. 19 Sch. 12 para. 10](#) (This Act is amended by S.I. 2020/1309, Sch. 1 para. 3(c))
- Sch. 3 para. 15(aa) inserted by [2016 c. 19 Sch. 12 para. 14\(2\)](#)
- Sch. 3 para. 15(d)-(f) inserted by [2016 c. 19 Sch. 12 para. 14\(4\)](#)
- Sch. 3 para. 7C(1)(c) word substituted by [S.I. 2019/745 reg. 12\(5\)\(d\)](#) (This amendment not applied to [legislation.gov.uk](#). Reg. 12(5)(a)(c)(d) omitted immediately before IP completion day by virtue of S.I. 2020/1309, regs. 1(2)(a), 48)
- Sch. 5 para. 3(1) Sch. 5 para. 3 renumbered as Sch. 5 para. 3(1) by [2005 c. 4 Sch. 4 para. 407\(2\)](#) (This amendment not applied to [legislation.gov.uk](#). The "original amending provision" is already fully in force, see Sch. 4 paras. 361, 407(5))
- Sch. 5 para. 3(2)-(4) inserted by [2005 c. 4 Sch. 4 para. 407\(4\)](#) (This amendment not applied to [legislation.gov.uk](#). The "original amending provision" is already fully in force, see Sch. 4 paras. 361, 407(5))

- Sch. 5 para. 3(1) words inserted by [2005 c. 4 Sch. 4 para. 407\(3\)](#) (This amendment not applied to legislation.gov.uk. The "original amending provision" is already fully in force, see Sch. 4 paras. 361, 407(5))